

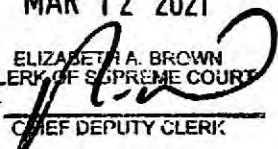
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHANNON DEAN CARTER,
Appellant,
vs.
THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS;
AND JAMES DZURENDA,
Respondents.

No. 81632-COA

FILED

MAR 12 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Shannon Dean Carter appeals from an order of the district court denying his July 16, 2018, postconviction petition for a writ of habeas corpus. First Judicial District Court, Carson City; James E. Wilson, Judge.

First, Carter argues the district court erred by denying his challenge to the computation of time served. In his petition, Carter claimed the Nevada Department of Corrections (NDOC) erroneously failed to apply his statutory credits toward his minimum parole eligibility date for his aggregated prison term. Carter also contended the remedy should be allowing him to withdraw his plea because NDOC's alleged calculation error extended the time he would have to spend in prison, thereby breaching his plea agreement.

The appropriate remedy for Carter's claim would be a parole hearing. *See Williams v. State Dep't of Corr.*, 133 Nev. 594, 600 n.7, 402 P.3d 1260, 1265 n.7 (2017) ("[T]he application of credits under NRS 209.4465(7)(b) only serves to make an offender eligible for parole earlier . . ."). Thus, if he has already received a parole hearing regarding this sentence, his claim is moot. *See id.* ("[N]o relief can be afforded where

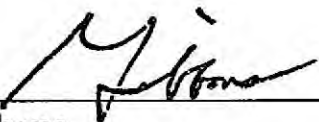
the offender has already expired the sentence or appeared before the parole board on the sentence.” (internal citation omitted)). The district court found Carter received a parole hearing, and the record before this court supports that finding. Because Carter’s claim was moot, we conclude the district court did not err by denying it.


Second, Carter argues the district court erred by failing to conduct an evidentiary hearing to ascertain the appropriate remedy for NDOC’s failure to apply statutory credits toward his minimum parole eligibility date. As explained previously, the appropriate remedy would be a parole hearing, *see id.*, and the record demonstrates that Carter has already received a parole hearing. Accordingly, the district court properly denied the petition without conducting an evidentiary hearing. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (holding an evidentiary hearing is warranted only if a petitioner raises claims supported by specific factual allegations that are not belied by the record and, if true, would entitle him to relief).

Third, Carter appears to argue the district court improperly construed his petition as a challenge to the computation of time served rather than a challenge to his judgment of conviction. However, a review of Carter’s petition demonstrated he challenged NDOC’s computation of his parole eligibility date. Therefore the district court properly construed his petition as a challenge to the computation of time served. *See* NRS 34.724(2)(c) (stating a postconviction petition for a writ of habeas corpus “[i]s the only remedy available to an incarcerated person to challenge the computation of time that the person has served pursuant to a judgment of conviction”); *see also* NRS 34.738(3) (“A petition must not challenge both the validity of a judgment of conviction or sentence and the computation of time

that the petitioner has served pursuant to that judgment.”). Accordingly,
we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. James E. Wilson, District Judge
Shannon Dean Carter
Attorney General/Carson City
Carson City Clerk